DRAFT BUDGET RELATED POLICIES

Annexure E

SUPPLY CHAIN MANAGEMENT POLICY

NEWCASTLE MUNICIPALITY

JULY 2017

SUPPLY CHAIN MANAGEMENT POLICY OF THE NEWCASTLE MUNICIPALITY

LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT NO. 56 OF 2003

Date of adoption: May 2016

The Newcastle Municipal Council resolves in terms of section 111 of the Local Government Municipal Finance Management Act (No. 56 of 2003), to adopt the following proposal as the Supply Chain Management Policy of the Newcastle Municipality.

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1. Policy Statement / Preamble

The Municipal Finance Management Act, (Act No.56 of 2003), as amended, provides that the Newcastle Municipality has a duty to take effective and active measures to be financially efficient, effective, transparent and economical through its supply chain management (SCM) processes.

2. Purpose

The purpose of this policy is to regulate the supply chain management functions and systems of the municipality.

3. Objective

a. To provide a framework to implement the provisions of section 217 of the Constitution of the Republic of South Africa in order to:

b. Implement a policy that is fair, equitable, transparent, competitive and cost effective and complies with all the applicable provisions of the Municipal Finance Management Act (MFMA).

c. Ensure consistency with the legal framework for MSCM.

d. Ensure that the municipality's strategic objectives are achieved.

4. Definitions

In this SCM Policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Act has the same meaning as in the Act, and

"competitive bidding process" means a competitive bidding process referred to in paragraph 19 (1) (d) of this SCM Policy;

"competitive bid" means a bid in terms of a competitive bidding process;

"final award", in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept;

"formal written price quotation" means quotations referred to in paragraph 19 (1) (c) of this SCM Policy;

"Family member" means a parent, sibling, child or spouse of a member

"in the service of the state" means to be –

a) a member of –
   (i) any municipal council;
   (ii) any provincial legislature; or
   (iii) the National Assembly or the National Council of Provinces;
a) a member of the board of directors of any municipal entity;
b) an official of any municipality or municipal entity;
c) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);
d) a member of the accounting authority of any national or provincial public entity; or
e) an employee of Parliament or a provincial legislature;

"long term contract" means a contract with a duration period exceeding one year;

"list of accredited prospective providers" means the list of accredited prospective providers which the Newcastle Municipality must keep in terms of paragraph 21 of this SCM policy;

'Member' means a person appointed by the accounting officer/authority to a bid evaluation panel, either as the chairperson, or as an ordinary member or secretariat, for purposes of conducting the evaluation of either transaction advisor bids or PPP bids as a representative of the institution

"other applicable legislation" means any other legislation applicable to municipal supply chain management, including –

a) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
b) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); and
c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000);
d) Preferential Procurement Regulations, 2017

'Privileged or confidential information' means any information:

a) determined by the institution to be privileged or confidential
a) discussed in closed session by the bid evaluation panel
b) which if disclosed would violate a person's right to privacy
c) declared to be privileged, confidential or secret in terms of any law including, but not limited to, information contemplated in sections 34(1);35(1); 36(1); 37(1)(a); 38(a); 39(1)(a); 40 or 43(1) of the Promotion of Access to Information Act, 2000.

"Treasury guidelines" means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act;

"the Act" means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

"the Regulations" means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005;

"written or verbal quotations" means quotations referred to in paragraph 19(1)(b) of this SCM Policy.

"B-BBEE" means broad-based black economic empowerment as defined in section 1 of The Broad-Based Black Economic Empowerment Act;

"B-BBEE status level of contributor" means the B-BBEE status receive by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Back Economic Empowerment Act, 2003 (Act No. 53 of 2003);

"black designated groups" has the meaning assigned to it in the codes of good practice issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

"black people" has the meaning assigned to it in section 1 of the Broad-Based Black Economic Empowerment Act;

"co-operative" means a co-operative registered in terms of section 7 of the Cooperatives Act, 2005 (Act No. 14 of 2005);

"designated group" means-
(a) black designated groups;
(b) black people;
c) women;
(d) people with disabilities; or
e) small enterprises, as defined in section 1 of the National Small Enterprise , 1996 (Act No. 102 of 1996);

"designated sector" means a sector, sub-sector or industry or product in of regulation 8(1)(a);

"EME" means an exempted micro enterprise in terms of a code of good practice on black empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

"functionality" means the ability of a tenderer to provide goods or services in accordance specifications as set out in the tender documents;

military veteran" has the meaning assigned to it in section 1 of the Military Veterans Act, 2011 (Act No. 18 of 2011);

"National Treasury" has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

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people with disabilities" has the meaning assigned to it in section 1 of the Employment Equity Act, 1998 (Act No. 55 of 1998);

"price" includes all applicable taxes less all unconditional discounts;

"proof of B-BBEE status level of contributor" means-
(a) the B-BBEE status level certificate issued by an authorised body or person;
(b) a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; or
(c) any other requirement prescribed in terms of the Broad-Based Black Economic Empowerment Act;

"QSE" means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

"Rand value" means the total estimated value of a contract in Rand, calculated at the time of the tender invitation;

"rural area" means-
(a) a sparsely populated area in which people farm or depend on natural resources, including villages and small towns that are dispersed through the area; or
(b) an area including a large settlement which depends on migratory labour and remittances and government social grants for survival, and may have a traditional land tenure system;

"stipulated minimum threshold" means the minimum threshold stipulated in terms of regulation 8(1)(b);

"the Act" means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);

"township" means an urban living area that any time from the late 19th century until 27 April 1994, was reserved for black people, including areas developed for historically disadvantaged individuals post 27 April 1994;

"treasury" has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999); and

"youth" has the meaning assigned to it in section 1 of the National Youth Development Agency Act, 2008 (Act No. 54 of 2008).

"Collusive Bidding/tendering" occurs Collusive bidding/tendering (or bid rigging) occurs when business, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and/ or services for purchasers who wish to acquire goods and /or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

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"Irregular expenditure" means Irregular expenditure means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including the MFMA.

"Preferential Procurement legislation" The Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000) and it's associated Preferential Procurement Regulations of 2017.

5. Identification of preference point system, designated sector, pre-qualification criteria, objective criteria and subcontracting

Newcastle municipality must-
(a) determine and stipulate in the tender documents-
(i) the preference point system applicable to the tender as envisaged in **regulation 6 or 7; or**

(ii) if it is unclear which preference point system will be applicable, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system;
(b) determine whether pre-qualification criteria are applicable to the tender as envisaged in regulation 4;
(c) determine whether the goods or services for which a tender is to be invited, are in a designated sector for local production and content as envisaged in regulation 8;
(d) determine whether compulsory subcontracting is applicable to the tender as envisaged in regulation 9; and
(e) determine whether objective criteria are applicable to the tender as envisaged in regulation 11.

6. Pre-qualification criteria for preferential procurement

(1) If an organ of state decides to apply pre-qualifying criteria to advance certain designated groups, that organ of state must advertise the tender with a specific tendering condition that only one or more of the following tenderers may respond-
(a) a tenderer having a stipulated minimum B-BBEE status level of contributor;
(b) an EME or QSE;
(c) a tenderer subcontracting a minimum of 30% to-
    (i) an EME or QSE which is at least 51% owned by black people;
    (ii) an EME or QSE which is at least 51% owned by black people who are youth;
    (iii) an EME or QSE which is at least 51% owned by black people who are women;
    (iv) an EME or QSE which is at least 51% owned by black people with disabilities;
    (v) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;

(vi) a cooperative which is at least 51% owned by black people;
(vii) an EME or QSE which is at least 51% owned by black people who are military veterans;
(viii) an EME or QSE.

(2) A tender that fails to meet any pre-qualifying criteria stipulated in the tender documents is an unacceptable tender.

7. Abbreviations

Abbreviation	Description
B-BBEE	Broad-Based Black Economic Empowerment
CFO	Chief Financial Officer
CIDB	Construction Industry Development Board
MFMA	Municipal Finance Management Act
PO	Purchase Order
PPP	Public Private Partnership
PPPFA	Preferential Procurement Policy Framework Act
SCM	Supply chain management
TOR	Terms of Reference

8. Legislative Framework

This policy is underpinned by the following pieces of legislation:

- The Constitution of the RSA, Act 108 of 1996, as amended
- Municipal Finance Management Act, (Act No. 56 of 2003), as amended (MFMA)
- Municipal Supply Chain Regulations (MSCM)
- All National Treasury and KwaZulu-Natal Provincial Treasury Practice Notes, Circulars, letters and instruction notes issued from time to time
- The Preferential Procurement Policy Framework Act (PPPFA), Act 5 of 2000
- The Preferential Procurement Regulations issued in 2017
- The Broad-based Black Economic Empowerment Act, the Strategy and the Codes of Good Practice
- Construction Industry Development Board Act No 38 of 2000 and its Regulations
- The Prevention and Combating of Corrupt Activities Act
- Promotion of Administrative Justice Act, Act No 3 of 2000
- Promotion of Access to Information Act, Act No 2 of 2000
- Protected Disclosures Act, Act No 26 of 2000

- The Competition Act, Act No 89 of 1998
- The King III Report on Corporate Governance for South Africa
- All other relevant acts, as well as the general legal environment within which contracts will be executed

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CHAPTER 1
IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

7. **Supply chain management policy**

7.1 All officials and other role players in the supply chain management system of the Newcastle Municipality must implement this SCM Policy in a way that

(a) gives effect to –
  (i) Section 217 of the Constitution; and
  (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;

(b) is fair, equitable, transparent, competitive and cost effective;

(c) complies with –
  (i) the Regulations; and
  (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;

(d) is consistent with other applicable legislation;

(e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and

(f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.

7.2. This SCM Policy applies when the Newcastle Municipality

(a) procures goods or services;

(b) disposes goods no longer needed;

(c) selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or

(d) selects external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.

7.3. This SCM Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –

(a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and

(b) electricity from Eskom or another public entity, another municipality or a municipal entity.

8. **Amendment of the supply chain management policy**

8.1. The accounting officer must –

(a) at least annually review the implementation of this SCM Policy; and

(b) when the accounting officer considers it necessary, submit proposals for the amendment of this SCM Policy to the Newcastle Municipal Council.

8.2. If the accounting officer submits proposed amendments to the Newcastle Municipal Council that differs from the model policy issued by the National Treasury, the accounting officer must

(a) ensure that such proposed amendments comply with the Regulations; and

(b) report any deviation from the model policy to the National Treasury and the KwaZulu-Natal Provincial Treasury.

8.3. When amending this supply chain management policy the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.

9. Delegation of supply chain management powers and duties

9.1. The Newcastle Municipal Council hereby delegates all powers and duties to the accounting officer which are necessary to enable the accounting officer –

(a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –
  (i) Chapter 8 or 10 of the Act; and
  (ii) this Policy;
(b) to maximize administrative and operational efficiency in the implementation of this Policy;
(c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favoritism and unfair and irregular practices in the implementation of this Policy; and
(d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.

9.2. Sections 79 and 106 of the Act apply to the sub-delegation of powers and duties delegated to an accounting officer in terms of subparagraph (1).

9.3. The accounting officer may not sub-delegate any supply chain management powers or duties to a person who is not an official of the Newcastle Municipality or to a committee which is not exclusively composed of officials of the Newcastle Municipality;

9.4. This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 31 of this Policy.

10. Sub-delegations

10.1. The accounting officer may in terms of section 79 or 106 of the Act sub-delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this SCM Policy, but any such sub-delegation must be consistent with subparagraph (2) of this paragraph and paragraph 9 of this SCM Policy.

10.2. The power to make a final award:

(a) above R2 million (VAT included) may not be sub-delegated by the accounting officer;
(b) above R200 000 (VAT included), but not exceeding R2 million (VAT included), may be sub-delegated but only to a bid adjudication committee of which the chief financial officer and senior management are members.

10.3. The bid adjudication committee must within five (5) days of the end of each month submit to the Accounting Officer a written report containing particulars of each final award made by The bid adjudication committee during that month, including:

(a) the amount of the award;

(b) the name of the person to whom the award was made; and
(c) the reason why the award was made to that person.

10.4. Paragraph 10.3 does not apply to procurements out of petty cash.

10.5. This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 38 of this SCM Policy.

10.6. No supply chain management decision-making powers may be delegated to an advisor or consultant.

11. Responsibilities

(a) Role of the Municipal Manager

(i) Ensures strict adherence to the guidelines provided in the SCM Policy.

(ii) Implementation of the SCM Policy and submission of quarterly reports.

(iii) Annual review of targets and the SCM Policy.

(iv) Approves the inclusion of a service provider in the Municipality supply chain management system after rehabilitation of the service provider according to statutory requirements.

(v) Appoints the members of the bid committees.

(b) Role of Directors

Each director shall be responsible and accountable for:

(i) exercising the powers, performing the functions and discharging the duties conferred or assigned to him in terms of this SCM Policy;

(ii) implementing the SCM Policy and any procedural and other prescripts issued in terms of the SCM policy within his area of responsibility;

(iii) ensuring compliance with the SCM Policy and any procedural and other prescripts issued in terms of the SCM policy within his area of responsibility;

(iv) developing, or causing to be developed, draft specifications for the procurements by his directorate exceeding an amount of R 500 (VAT inclusive);

(v) properly planning for and, as far as possible, accurately estimating the costs of the provision of services, works or goods for which offers are to be solicited;

(vi) selecting the appropriate preference point goals to be utilised in the evaluation of offers;

(vii) achieving any objectives and targets set with regard to procurements and disposals;

(c) The role of the Chief Financial Officer

(i) Is the custodian of the SCM Policy and report on progress regarding its implementation.

(ii) Has overall management of the quotation and competitive bidding process from solicitation to processing of invoice payment.

(iii) Promotes corporate approach by encouraging standardization of items purchased within the Municipality to realize economies of scale.

(iv) Ensures that procurements and disposals are effected through practices that demonstrate compliance to all relevant legislation.

(v) Is responsible for managing procurements and disposals to ensure that the supply chain management system of the Municipality is adhered to.

(vi) Ensures that the procurements and disposal process followed adheres to preference targets without compromising price, quality, service delivery and developmental objectives.

(vii) Is responsible for ensuring that all employees involved in the supply chain management process receive the necessary training to support implementation of the SCM Policy.

(viii) Is responsible for establishing the amount to be paid by prospective service providers as a non-refundable deposit for enquiry documents issued by the Municipality.

(ix) Is responsible for the verification of the applications of service providers for possible inclusion in the Suppliers' Database.

(x) Shall submit regular reports to the Accounting Officer, who will in turn submit to the Finance Portfolio Committee; regarding progress and any matters of importance relating to the SCM Policy.

(d) The role of Advisors

The Municipal Manager may procure the services of advisors to assist in the execution of the supply chain management function. These advisors must be obtained through a competitive bidding process. No advisor may however form part of the final decision-making process regarding the awarding of bids, as this will counter the principle of vesting accountability with the Municipal Manager. The Municipal Manager may not delegate decision-making authority to a person other than an official.

12. Oversight role of council

12.1. The Newcastle Municipal Council reserves its right to maintain oversight over the implementation of this SCM Policy.

12.2. For the purposes of such oversight the accounting officer must:

(a) within 30 days of the end of each financial year, submit a report on the implementation of this SCM Policy and the supply chain management policy of any municipal entity under sole or shared control of the municipality, to the council of the municipality; and

(b) whenever there are serious and material problems in the implementation of this SCM Policy, immediately submit a report to the Newcastle Municipal Council

12.3. The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the Mayor of the Newcastle Municipality.

12.4 The reports must be made public in accordance with section 21A of the Municipal Systems Act.

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13. Supply Chain Management Unit

13.1. A supply chain management unit is hereby established to implement this SCM Policy.

13.2. The supply chain management unit operates under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

14. Training of supply chain management officials

14.1. The training of officials involved in implementing this SCM Policy should be in accordance with any Treasury guidelines on supply chain management training.

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CHAPTER 2
SUPPLY CHAIN MANAGEMENT SYSTEM

15. Format of supply chain management system

15.1. This SCM Policy provides systems for –
(a) demand management;
(b) acquisition management;
(c) logistics management;
(d) disposal management;
(e) risk management; and
(f) performance management.

Part 1: Demand management

16. System of demand management

16.1. The accounting officer must establish and implement an appropriate demand management system in order to ensure that the resources required by Newcastle Municipality support its operational commitments and its strategic goals outlined in the Integrated Development Plan.

16.2 The demand management system must –
(a) include timely planning and management processes to ensure that all goods and services required by the Newcastle Municipality are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;
(b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature; and
(c) provide for the compilation of the required specifications to ensure that its needs are met.
(d) To undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximized.

17. Duties of Supply Chain Management Unit

(a) During consultations between the Supply Chain Management Unit and directors, all reasonable efforts shall be made to determine :
(i) the desired date and time at which a specific contract must be awarded;
(ii) the desired date and time when specific goods must be delivered, services rendered or work executed;
(iii) the place where any goods to be supplied shall be delivered;
(iv) the quantity and quality of any goods to be supplied; and

Part 2: Acquisition management

18. System of acquisition management

18.1. The accounting officer must implement the system of acquisition management set out in this Part in order to ensure –

(a) that goods and services are procured by the Newcastle Municipality in accordance with authorized processes only;
(b) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
(c) that the threshold values for the different procurement processes are complied with;
(d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
(e) that any Treasury guidelines on acquisition management are properly taken into account.

18.2. When procuring goods or services contemplated in section 110(2) of the Act, the accounting officer must make public the fact that such goods or services are procured otherwise than through the Newcastle Municipality's supply chain management system, including -

(a) the kind of goods or services; and
(b) the name of the supplier.

19. Range of procurement processes

19.1. Goods and services may only be procured by way of –

(a) petty cash purchases, up to a transaction value of R2 000 (VAT included);
(b) written or verbal quotations for procurements of a transaction value of R2 000 up to R10 000 (VAT included);
(c) formal written price quotations for procurements of a transaction value over R10 000 up to R200 000 (VAT included); and
(d) a competitive bidding process for:
    (i) procurements above a transaction value of R200 000 (VAT included); and
    (ii) the procurement of long term (period) contracts.

19.2. The accounting officer may, in writing-

(a) lower, but not increase, the different threshold values specified in subparagraph (1); or
(b) direct that –
    (i) written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000;
    (ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000; or
    (iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.

19.3. Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the SCM policy. When determining transaction

values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

19.4. Approval authorities / delegations

(a) The Supply Chain Management Policy must act in support of the Delegations Policy for approval authority for acquisitions in accordance with paragraphs 19.1, 19.2 and 19.3.

20. General preconditions for consideration of written quotations or bids

A written quotation or bid may not be considered unless the provider who submitted the quotation or bid –

(a) has furnished that provider's –
  (i) full name;
  (ii) identification number or company or other registration number; and
  (iii) tax reference number and VAT registration number, if any;
(b) has authorised the Newcastle Municipality to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and
(c) has indicated –
  (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
  (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
  (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

21. Lists of accredited prospective providers

21.1. The accounting officer must –

a) keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements through written or verbal quotations and formal written price quotations; and
b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;
c) specify the listing criteria for accredited prospective providers *(refer to database form for listing criteria)*; and
d) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.

21.2. The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.

22. Petty cash purchases

22.1. The conditions for procurement of goods by means of petty cash referred to in paragraph

19 (1) (a) of this Policy, are as follows –

(a) The Chief Financial Officer may, in writing, delegate the responsibility to monitor Petty Cash purchases to the Accountant: Revenue/Income Officer.

(b) Goods and services may only be procured by way of petty cash, up to a transaction value of R500 (VAT included).

(c) A maximum of five petty cash purchases per month will be allowed for each departmental section.

(d) Total petty cash may not exceed R3 000.00 for each calendar month for the whole municipality.

(e) Petty cash may only be used for the following types of expenditure: refreshments, catering, gifts, wheel repairs, and other small items.

(f) a monthly reconciliation report from the Accountant Revenue must be submitted to the Chief Financial Officer, including –

(i) the total amount of petty cash purchases for that month; and

(ii) receipts and appropriate documents for each purchase.

22.2 For the implementation of the petty cash purchases, refer to Newcastle Municipality Petty Cash Policy.

23. Written or verbal quotations

23.1. The conditions for the procurement of goods or services through written or verbal quotations are as follows:

(a) Quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the Newcastle Municipality provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 20(1)(b) and (c) of this SCM Policy;

(b) to the extent feasible, providers must be requested to submit such quotations in writing;

(c) if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer;

(d) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and

(e) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.

24. Formal written price quotations

24.1. The conditions for the procurement of goods or services through formal written price quotations are as follows:

(a) quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the Newcastle Municipality ;

(b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 19(1)(b) and (c) of this SCM Policy;

(c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer, and

(d) the accounting officer must record the names of the potential providers and their written quotations.

24.2. A designated official referred to in subparagraph (1) (c) must within three days of the end of each month report to the chief financial officer on any approvals given during that month by that official in terms of that subparagraph.

25. Procedures for procuring goods or services through written or verbal quotations and formal written price quotations

25.1. The procedure for the procurement of goods or services through written or verbal quotations or formal written price quotations is as follows:

(a) when using the list of accredited prospective providers the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;

(b) all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 23, be advertised for at least seven days on the website and an official notice board of the Newcastle Municipality.

(c) offers received must be evaluated on a comparative basis taking into account unconditional discounts;

(d) the accounting officer or chief financial officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub-delegation;

(e) offers below R30 000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price; offers above R30 000 (VAT included), the accounting officer should apply the prescripts of the Preferential Procurement Policy Framework Act, Act 5 of 2000 and its associated Regulations.

(f) acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who scored the highest points;

26. Competitive bids

27.1. Goods or services above a transaction value of R200 000 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to paragraph 18(2) of this SCM Policy.

27.2. No requirement for goods or services above an estimated transaction value of R200 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

28. Process for competitive bidding

The procedures for the following stages of a competitive bidding process are as follows:

(a) Compilation of bidding documentation as detailed in paragraph 29;
(b) Public invitation of bids as detailed in paragraph 30;
(c) Site meetings or briefing sessions as detailed in paragraph 30;
(d) Handling of bids submitted in response to public invitation as detailed in paragraph 31;
(e) Evaluation of bids as detailed in paragraph 40;
(f) Award of contracts as detailed in paragraph 41;
(g) Administration of contracts
  (i) After approval of a bid, the accounting officer and the bidder must enter into a written agreement.
(h) Proper record keeping
(i) Original / legal copies of written contracts agreements should be kept in a secure place for reference purposes. All original contracts shall be deposited with the Accounting Officer within a week of signing the contract and a copy shall be kept in the departmental file while another copy shall be delivered to the SCM unit.

29. Bid documentation for competitive bids

The criteria to which bid documentation for a competitive bidding process must comply, must –

(a) take into account –
  (i) the general conditions of contract and any special conditions of contract, if specified;
  (ii) any Treasury guidelines on bid documentation; and
  (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
(b) include the preference points system to be used , goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
(c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
(d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–
  (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
    (aa) for the past three years; or
    (bb) since their establishment if established during the past three years;

(ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;

(iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;

(iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and

e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.

30. Public invitation for competitive bids

30.1. The procedure for the invitation of competitive bids is as follows:

(a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the Newcastle Municipality or any other appropriate ways (which may include an advertisement in the (Government Tender Bulletin, Sunday Times , The Mercury and Ilanga); and

(b) the information contained in a public advertisement, must include –

(i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this SCM policy;

(ii) a statement that bids may only be submitted on the bid documentation provided by the Newcastle Municipality; and date, time and venue of any proposed site meetings or briefing sessions.;

30.2. The accounting officer may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.

30.3. Bids submitted must be sealed.

30.4. Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

31. Procedure for handling, opening and recording of bids

The procedures for the handling, opening and recording of bids, are as follows:

(a) Bids–

(i) must be opened only in public;

(ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and

(iii) bids received after the closing time should not be considered and returned unopened immediately and the reason as to why the bid cannot be considered.

(b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;
(c) No information, except the provisions in subparagraph (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and
(d) The accounting officer must –
  (i) record in a register all bids received in time;
  (ii) make the register available for public inspection; and
  (iii) publish the entries in the register and the bid results on the website.

32. Negotiations with preferred bidders

32.1. The accounting officer or delegated official may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –
(a) does not allow any preferred bidder a second or unfair opportunity;
(b) is not to the detriment of any other bidder; and
(c) does not lead to a higher price than the bid as submitted.

32.2 Minutes of such negotiations must be kept for record purposes.

33. Two-stage bidding process

33.1. A two-stage bidding process is allowed for –
(a) large complex projects;
(b) projects where it may be undesirable to prepare complete detailed technical specifications; or
(c) long-term projects with a duration period exceeding three years.

33.2. In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.

33.3. In the second stage final technical proposals and priced bids should be invited.

34. Issuing of bid documentation

(a) Bid documents and any subsequent notices shall only be issued by the SCM Unit or authorized department.

(b) A non-refundable bid charge, as required in the bid notice, may be raised by the Municipality for bid documents.

(c) Details of all prospective bidders who have been issued with bid documents shall be recorded by the SCM Unit or authorized department. Such details shall include:

  (i) the legal and full name of the person/company/closed corporation/firm drawing documents;

(ii) a contact person;

(iii) a contact telephone number;

(iv) a contact fax number;

(v) a postal address;

(vi) an e-mail address;

d) Details recorded shall remain confidential for the duration of the bid period.

35. Validity periods

(a) The period for which bids are to remain valid and binding shall be indicated in the bid documents. The period is calculated from the closing time and bids shall remain in force and binding until the end of the final day of the period.

(b) This period of validity may be extended by mutual consent in writing between the Municipality and the bidder, provided that the original validity period has not expired, and that all bidders shall have an opportunity to extend such period.

(c) If, in exceptional circumstances, it becomes necessary to extend the bid period, a notice shall be published in the press at least one week prior to the original bid closing date. This notice shall also be posted on the notice boards at designated Municipal offices, and a notice to all bidders of bids received at that stage to this effect shall be issued.

36. Bid Prices and Contract Periods for Engineering and Construction Contracts

(a) For all contract periods equal to or exceeding one year in duration, an appropriate contract price adjustment formula shall be specified in the bid documents.
(b) In general, where contract periods do not exceed one year in duration, the bid shall be a fixed price bid (not subject to contract price adjustment). However, if as a result of any extension of time granted, the duration of a fixed price contract exceeds one year, the contract will automatically be subject to contract price adjustment acceptable to both parties for that period by which the extended contract period exceeds such one year. An appropriate contract price adjustment formula shall be specified in the bid documents.
(c) Notwithstanding the above arrangement, where the bid validity period is extended, then contract price adjustment may be applied.
(d) An appropriate contract period must be specified for all engineering and construction contracts. The time for completion shall be stated in number of weeks.

37. Samples

When samples are called for in the bid documents, samples (marked with the bid and item number as well as the bidder's name and address) shall be delivered to the addressee mentioned in the bid documents by no later than the closing time of the bid. Bids shall not be included in parcels containing samples.

If samples are not submitted as requested, the bid concerned may be declared non responsive.

Samples shall be supplied by a bidder at his own expense and risk. The Municipality shall not be obliged to pay for such samples or compensate for the loss thereof, unless otherwise specified in the bid documents, and shall reserve the right not to return such samples and to dispose of them at its own discretion.

Where a bid is accepted for the supply of goods according to a sample submitted by the bidder, such sample shall become the contract sample. All goods/materials supplied shall comply in all respects to the contract sample.

38. Committee system for competitive bids

38.1. A committee system for competitive bids is hereby established, consisting of the following committees for each procurement process or cluster of procurements as the accounting officer may determine:
(a) a bid specification committee;
(b) a bid evaluation committee; and
(c) a bid adjudication committee;

38.2. The accounting officer appoints the members of each committee, taking into account section 117 of the Act; and

38.3. A neutral or independent observer, appointed by the accounting officer, must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.

38.4. The committee system must be consistent with –
(a) paragraph 39, 40 and 41 of this SCM Policy; and
(b) any other applicable legislation.

38.5. The accounting officer may apply the committee system to formal written price quotations.

38.6. The following persons shall not be eligible to become members of a bid committee –

(a) a councillor of any municipality; and

(b) a member of the Municipality's audit committee or performance audit committee.

(c) No councillor of any municipality may attend a meeting of a bid committee in any capacity, nor may a councillor make a presentation or representations to or conduct an interview with a bid committee in any capacity.

38.7. A bid committee established in terms of this chapter shall perform its functions, exercise its powers and discharge its duties independently and without fear, favor or prejudice.

39. Bid specification committees

39.1. A bid specification committee must compile specifications for each procurement of goods or services by the Newcastle Municipality.

39.2. Specifications –

(a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
(b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply;
(c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
(d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;
(e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word "equivalent";
(f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2001; and
(g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of paragraph 30 of this SCM Policy.

39.3. A Bid Specification Committee must be composed of one or more managers responsible for the function involved and may, when appropriate, include external specialist advisors.

39.4. No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

40. Bid evaluation committees

40.1. A bid evaluation committee must –

(a) evaluate bids in accordance with –
  (i) the specifications and conditions for a specific procurement; and
  (ii) the points system set out in terms of paragraph 39(2)(f).
(b) evaluate each bidder's ability to execute the contract;
(c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and; the bidder submitted the required original tax clearance certificate and other clearance / registration forms as prescribed by various acts and / or in the bid documentation; and
(d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

40.2. A Bid Evaluation Committee must as far as possible be composed of-

(a) Directors from departments requiring the goods or services.
(b) At least one Supply Chain Management Practitioner of the Newcastle Municipality

41. Bid Adjudication Committees

41.1. A bid adjudication committee must –
(a) consider the report and recommendations of the bid evaluation committee; and
(b) either –
(i) depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or
(ii) make another recommendation to the accounting officer how to proceed with the relevant procurement.

41.2. A Bid Adjudication Committee must consists of at least four Strategic Executive Directors of the Newcastle Municipality-
(a) the chief financial officer or, if the chief financial officer is not available, another manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer; and at least one senior supply chain management practitioner who is an official of the Newcastle Municipality; and
(b) a technical expert in the relevant field who is an official, if such an expert exists.

41.3. The Accounting Officer must appoint the Chairperson of the Bid Specification Committee, Bid Evaluation Committee and Bid Adjudication Committee If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.

41.4. Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee. Members of the Bid Evaluation Committee may present their recommendations / reports to the Bid Adjudication committee and clarify issues but shall not have any voting powers.

41.5. If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee,
(a) the bid adjudication committee must prior to awarding the bid –
(i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;
(ii) Notify the accounting officer.

b) The accounting officer may –
(i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and
(ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.

41.6. The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.

41.7. The accounting officer must comply with section 114 of the Act within 10 working days

41.8. Meetings of bid committees and decision-making

(a) The chairperson of the relevant bid committee shall determine the date, time and venue of meetings of the committee concerned. At least three working days written notice shall be given of a meeting of a bid committee to all the members.

(b) A majority of the members of a bid committee must be present before the committee concerned may consider any matter.

(c) Members of the committee can only be represented by another person who is acting or seconded to the meeting on his behalf for that day.

(d) Decisions of a bid committee shall be taken by a majority of the members present at a meeting voting in favor of, or against, a question.

(e) The Municipal Manager shall make appropriate arrangements to ensure that secretarial and such other administrative support services as may be required are provided to a bid committee.

(f) Minutes shall be kept of each meeting of a bid committee. Such minutes shall :

(i) be considered and adopted, with or without amendments, as a true and accurate reflection of the proceedings at, and resolutions taken during a bid committee meeting, by the relevant committee at its first meeting next ensuing;

(ii) be signed by the person presiding at the meeting when they are approved; and

(iii) shall prima facie be evidence of the proceedings at a meeting of the relevant committee until the contrary is proven.

(iv) after approval be submitted to the SCM Unit, together with the tender documents concerned, for the calling of tenders or quotations where applicable.

42. Procurement of banking services

42.1. A contract for banking services –

(a) must be procured through competitive bids;
(b) must be consistent with section 7 or 85 of the Act; and
(c) may not be for a period of more than five years at a time.

42.2. The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.

42.3 The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 30(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

43. Procurement of IT related goods or services

43.1. The accounting officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.

43.2. Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.

43.3. The accounting officer must notify SITA together with a motivation of the IT needs if –

(a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or

(b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).

43.4. If SITA comments on the submission and the Newcastle Municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the KwaZulu-Natal Provincial Treasury and the Auditor-General.

44. Procurement of goods and services under contracts secured by other organs of state

44.1. The accounting officer may procure goods or services under a contract secured by another organ of state, but only if –

(a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;

(b) there is no reason to believe that such contract was not validly procured;

(c) there are demonstrable discounts or benefits to do so; and

(d) that other organ of state and the provider have consented to such procurement in writing.

44.2. Subparagraphs (1)(c) and (d) do not apply if –

(a) a municipal entity procures goods or services through a contract secured by its parent municipality; or

(b) a municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

45. Procurement of goods necessitating special safety arrangements

45.1. The acquisition and storage of goods in bulk (other than water), which necessitate special safety arrangements, including gasses and fuel, should be avoided where ever possible.

45.2. Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the accounting officer.

46. Proudly SA Campaign

46.2. The Newcastle Municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:

(a) Firstly – suppliers and businesses within the municipality or district;

(b) Secondly – suppliers and businesses within the relevant province;

(c) Thirdly – suppliers and businesses within the Republic.

47. Appointment of consultants

47.1. The accounting officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.

47.2. Consultancy services must be procured through competitive bids if
(a) the value of the contract exceeds R200 000 (VAT included); or
(b) the duration period of the contract exceeds one year.

47.3. In addition to any requirements prescribed by this SCM policy for competitive bids, bidders must furnish particulars of –
(a) all consultancy services provided to an organ of state in the last five years; and
(b) any similar consultancy services provided to an organ of state in the last five years.

47.4. The accounting officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the Newcastle Municipality.

48 Deviation from, and ratification of minor breaches of, procurement processes

48.1. The accounting officer may –
(a) dispense with the official procurement processes established by this SCM Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –
(i) in an emergency;
(ii) if such goods or services are produced or available from a single provider only;
(iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
(iv) acquisition of animals for zoos and/or nature and game reserves; or
(v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
(b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.

48.2. The accounting officer must record the reasons for any deviations in terms of subparagraphs (1)(a) and (b) of this SCM policy and report them to the next meeting of the council and include as a note to the annual financial statements.

48.3. Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 18(2) of this SCM policy.

49. Unsolicited bids

49.1. In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.

49.2. The accounting officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –
(a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
(b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
(c) the person who made the bid is the sole provider of the product or service; and
(d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.

49.3. If the accounting officer decides to consider an unsolicited bid that complies with subparagraph (2) of this SCM policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –
(a) reasons as to why the bid should not be open to other competitors;
(b) an explanation of the potential benefits if the unsolicited bid were accepted; and
(c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.

49.4. The accounting officer must submit all written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, to the National Treasury and the KwaZulu-Natal Provincial Treasury for comment.

49.5. The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.

49.6. A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.

49.7. When considering the matter, the adjudication committee must take into account –
(a) any comments submitted by the public; and
(b) any written comments and recommendations of the National Treasury or the KwaZulu-Natal Provincial Treasury.

49.8. If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the KwaZulu-Natal Provincial Treasury and the National Treasury the reasons for rejecting or not following those recommendations.

49.9. Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the Newcastle Municipality to the bid may be entered into or signed within 30 days of the submission.

50. Combating of abuse of supply chain management system

50.1. The accounting officer must–
(a) take all reasonable steps to prevent abuse of the supply chain management system;

(b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this SCM Policy, and when justified –
  (i) take appropriate steps against such official or other role player; or
  (ii) report any alleged criminal conduct to the South African Police Service;
(c) check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
(d) reject any bid from a bidder–
  (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the Newcastle Municipality, or to any other municipality or municipal entity, are in arrears for more than three months; or any bidder who failed to produce a valid original tax clearance certificate issued by SARS to certify that the tax matters of a certain bidder are in order or necessary arrangements were made with SARS. or
  (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the Newcastle Municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
(e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
(f) cancel a contract awarded to a person if –
  (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
  (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
(g) reject the bid of any bidder if that bidder or any of its directors –
  (i) has abused the supply chain management system of the Newcastle Municipality or has committed any improper conduct in relation to such system;
  (ii) has been convicted for fraud or corruption during the past five years;
  (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
  (iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).

50.2. The accounting officer must inform the National Treasury and KwaZulu-Natal Provincial Treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this SCM policy.

Part 3: Logistics, Disposal, Risk and Performance Management

51. Logistics management

51.1. The accounting officer must establish and implement an effective system of logistics management, which must include -
(a) the monitoring of spending patterns on types or classes of goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;

(b) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
(c) the placing of manual or electronic orders for all acquisitions other than those from petty cash;
(d) before payment is approved, certification by the responsible officer that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;
(e) appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased;
(f) regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and
(g) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.
(h) The SCM Unit shall be responsible and accountable for the establishment, management and operation of store facilities for the Municipality, which shall consist of a main store and such satellite stores in other areas within the Municipality as may be necessary.

(i) The Supply Chain Manager shall be responsible and accountable for:

(i) The day-to-day operation of the Municipality's store facilities;

(ii) Determining the range and nature of items that will be carried in the main store facility and satellite stores;

(iii) Setting of inventory levels;

(iv) Timely placement of orders when stock levels are low;

(v) Receiving and distribution of goods; and

(vi) Expediting orders.

52. Disposal management

52.1. The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, are as follows:

(a) The Newcastle Municipal Council has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services;
(b) The Newcastle Municipal Council has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset to the Municipality.
(c) The accounting officer of the Newcastle Municipality shall have delegated authority to transfer ownership as a result of a sale or other transaction, or otherwise permanently

dispose of a capital asset not needed to provide the minimum level of basic municipal services, with a value of up to R1 000 000.

(d) The Newcastle Municipal Council shall authorize transfer ownership as a result of a sale or other transaction, or otherwise permanently dispose of a capital asset not needed to provide the minimum level of basic municipal services, with a value of greater than R1 000 000 by resolution of a municipal council meeting open to the public.

52.2. Assets may be disposed of by –

(a) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
(b) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
(c) selling the asset; or
(d) destroying the asset.

52.3. The accounting officer must ensure that –

(a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
(b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
(c) firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;
(d) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise; as determined by council from time to time
(e) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
(f) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
(g) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.

53 Disposal and lease of municipal land

53.1. The Newcastle Municipality has a core responsibility to acquire and avail land and buildings, in the first instance, for its own use for purposes of developing and maintaining municipal infrastructure, promoting service delivery and facilitating social and economic development and spatial integration. Future land requirements must be acknowledged and immovable property should be held in reserve for this purpose.

53.2. In acquiring, managing, developing and releasing land, the Newcastle Municipality must consider the best interests of the municipality (and thus its residents) rather than that of individuals when entering into real estate transactions. Maximum benefit should be given to the Municipality and thereby the community.

53.3. The Newcastle Municipality should act in the best interests of its citizens, and it therefore follows that the Newcastle Municipality will not singularly follow the historic processes and

values of the market. Moreover, because the historic accumulation of land and property is highly varied, this must be acknowledged in terms of future transactions. Certain interventions may be necessary in land transactions pursued by the Newcastle Municipality as compared to those of the private land and property market. The private market is concerned with maximizing capital gain, as against the role of the municipality in acting in the best interests of its citizens.

53.4. The Newcastle Municipality must act in support of sectoral policies such as economic development, environment management, land use, housing, social and community infrastructure and culture and recreation.

53.5. Any land assets unrelated to these uses is deemed surplus.

53.6. Market forces shall be the point of departure in all transactions.

54. Categories of Land
The municipality's land assets are categorized as follows:
(a) land intended for residential development
(b) land intended for commercial and industrial purposes
(c) land intended for social purposes including religious, education and institutional purposes
(d) land intended to be developed for sport and recreation purposes
(e) land intended for agricultural purposes

55. Manner of disposal of various categories of land

(a) Land incapable of development in its own right within predominantly residential areas e.g. sanitary lanes and unutilized substation erven will be offered in ownership to the respective adjoining owners at market value. The purchaser will be liable for all costs of possible relocation of services, rezoning, survey, registration and transfer. The creation of a free standing lot will in each instance be the preference of Council in order that new residential opportunities are created.
(b) Residential land capable of development in its own right shall be offered for sale by means of an invitation to bid or public auction subject to an upset price that is market related but taking into account historical individuals. Residential land intended for sale for the development and sale to the beneficiaries of a housing programme of the national or provincial government shall be offered for sale by private treaty at a price determined by council provided that the plight of the poor is taken into account.
(c) Residential land that has been acquired for a capital project which has yet to commence and which is thus not immediately required by the municipality will be offered on a short term lease basis. The rental payable shall be market related unless determined otherwise by council. The property will be offered on private treaty at no cost to Council.
(d) Commercial land that is incapable of development on its own right will be offered to the respective adjoining owners at market value. The purchaser will be responsible for all costs associated with the possible relocation of services, rezoning, survey, registration and transfer
(e) Commercial and industrial land capable of development in its own right will be offered for sale by public competition (either by public auction or invitation to bid as the council may prefer from time to time. Sale of land will be subject to an upset value that is market

related and such other conditions supporting the policies and programmes of the municipality.

(f) Land located within an area of specific focus or which is subject to a specific development or social programme may be offered for sale or lease as the council may determine on a case by case basis through an invitation to bid. In such cases the maximization of returns will not necessarily be the determining factor and the aims of the municipality will be clearly articulated in the bid documentation. Land in this category may be allocated to take into account historically disadvantaged individuals.

(g) Commercial and industrial land not immediately required for the municipality needs will be offered on a short term basis and the notice period will vary based on when the property will be required. The rental will be at market related rates unless determined otherwise by council in the interest of the public.

(h) Ownership of social sites shall be by means of an invitation to bid. Bidders will be subject to a screening process that will take into account amongst other things the community, the nature of the organization and its ability to discharge its intentions. The sale shall be subject to a predetermined market related price or as may be determined by council

(i) Amateur sports bodies are those bodies that are providing sporting facilities. Land will be offered in an open bidding process on a leasehold basis and will preclude discrimination and will be subject to development clauses to ensure the discharge of intentions. The rental will be established on the basis of a nominal rental for the total land component on the lease as may be approved by the municipality. The lessee will be liable for rates and services consumed as prescribed by the Newcastle Municipality's tariff of charges.

(j) Land for professional sport
   (i) in instances where there is commercial benefit to be derived by the owner or shareholders of a club a differentiation will be made from those agreement for amateur sport in terms of rental payable
   (ii) land for rental will be at its full economic value or a percentage of all financial turnover and such percentage will be determined by the Municipality from time to time. The contribution the sport makes to the economic development will be taken into consideration in determining such percentage.
   (iii) the sporting organization's liability to rates shall be in accordance with the rates policy.

(k) Land for agricultural purposes

Agricultural land shall be offered for sale by means of an invitation to bid, subject to an upset price that is market related and will take into consideration the historical disadvantaged. The land shall be leased to community groups on a case by case basis taking into consideration the municipal social programmers and the historically disadvantaged.

56. Unsolicited proposals for land

The municipality will follow the following procedure for unsolicited proposals for land development

(a) proposals received will be evaluated by the municipality.

(b) realistic propositions will be advertised in the media to solicit competitive proposals or objections from the public.
(c) if a response is received from the public, a competitive
(d) will be called for by means of an invitation to bid.
(e) the sale will be by way of market value unless the development is in the plight of the poor in which case the council determines to price land on a case by case basis.

57. Contracts providing for compensation based on turnover

If a service provider acts on behalf of the Newcastle Municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the Newcastle Municipality must stipulate –

(a) a cap on the compensation payable to the service provider; and
(b) that such compensation must be performance based.

58. Risk management

58.1. The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, are as follows:

58.2. Risk management must include –
(a) the identification of risks on a case-by-case basis;
(b) the allocation of risks to the party best suited to manage such risks;
(c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
(d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
(e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

59. Performance management

The accounting officer must establish and implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorized supply chain management processes were followed and whether the objectives of this SCM Policy were achieved.

60. Contract Management

60. 1. Service Level Agreements
(a) Contracts concluded for the procurement of goods and services should be made subject to the conclusion of a service level agreement.
(b) It is the responsibility of each directorate concerned to ensure that a valid and legally binding contract is entered into between the municipality and the successful bidder in line with the bid specifications, after approval of the bid as mentioned above.

(c) In the event that a suitable contract has not been included in the bid documentation, a copy of the approval and all relevant documentation must be provided to Legal Services timely for the drafting of a suitable contract.

(d) After signing of the contract by the parties, the directorate concerned must ensure that copies are made available to all role players including the Supply Chain Management Unit. The originally signed copy must be filed at the main records who will act as custodian of all procurement contracts of the municipality.

(e) The directorate concerned is responsible, in consultation with the Supply Chain Management Unit and Legal Services, to ensure that service providers comply with the provisions of the contract, and in the event of a possible breach of contract or proposed amendment to the contract, to submit a report in this regard to the Municipal Manager.

60.2. Extension/Expansion of contracts

The Accounting Officer must as far as possible refrain from extending/expanding contracts and for allowing a variation orders as this increases risk, reflects possible flaws in planning and creates an uncompetitive environment that may possibly unfairly prejudice other possible vendors. Extensions should only be granted if it makes economic sense and provided that it can be justified in terms of fairness, equitableness, transparency, competitiveness and cost effectiveness.

61. Remedies in case of death, sequestration, liquidation or judicial management

(a) In the event of the death of a contractor or the provision of or final sequestration of his or her estate or of his or her cession or transfer of contract without the approval of the Newcastle Municipality or of the surrender of his or her estate or his or her reaching a compromise with his or her creditors or of the provisional of final liquidation of a contractor's company or placing of its affairs under judicial management, the council must without prejudice to any rights it may have, exercise any of the following:

(i) Cancel the contract and accept any of the bids which were submitted originally with that of the contractor or any offer subsequently received to complete the contract. In such a case the estate of the contractor shall not be relieved from liability for any claim which has risen or may arise against the contractor in respect of supplies not delivered or work not carried out under the contract, and the Newcastle Municipality shall have the right to hold and retain all or any of the securities and retention moneys held by it at the date of the aforementioned occurrences until such claim has been satisfied or

(ii) Allow the executor, trustee, liquidator or judicial manager as the case may be for and on behalf of and at the expense and cost of the estate of the contractor to carry on and complete the contract.

(b) In the event of the contract being cancelled by the municipality in the exercise of its rights in terms of these conditions, the contractor should be liable to pay council

any losses sustained and or additional costs or expenditure incurred as a result of such cancellation and Council should have the right to recover such losses, damages or additional costs by means of set off from moneys due or which may become due in terms of the contract or any other contract or from a guarantee provided for the due fulfillment of the contract and until such time as the moneys or guarantee as security have been determined for any loss which the Council may suffer or have suffered. The contractor must be held responsible for any consequential damages and loss sustained which may be caused by any defect, latent or otherwise in the supply or service rendered.

(c) Transfer of contract
The contractor must not abandon, transfer, assign or sublet a contract or part thereof without the written permission of the Council.

62. Penalties

62.1. Where a contract has been awarded on the strength of preference point information furnished by the contractor, which after the conclusion of the relevant contract is proved to have been incorrect, the Municipality may in addition to any other legal remedy it may have to recover from the contractor all costs, losses or damages incurred or sustained by the municipality as a result of the award of the contract and /or

(a) cancel the contract and claim damages which the municipality may suffer as a result of having to make less favourable arrangements and /or

(b) impose on the contractor a penalty not exceeding 5% of the value of the contract

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Part 4: Other matters

63. Prohibition on awards to persons whose tax matters are not in order

(a) No award above R30 000 may be made in terms of this SCM Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order.

(b) Before making an award to a person the accounting officer must first check with SARS whether that person's tax matters are in order.

(c) If SARS does not respond within 7 days such person's tax matters may, for purposes of subparagraph 63(a), be presumed not to be in order.

64. Prohibition on awards to persons in the service of the state

Irrespective of the procurement process followed, no award may be made to a person in terms of this SCM Policy –

(a) who is in the service of the state;

(b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or

(c) a person who is an advisor or consultant contracted with the Newcastle Municipality.

65. Awards to close family members of persons in the service of the state

The accounting officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –

(a) the name of that person;

(b) the capacity in which that person is in the service of the state; and

(c) the amount of the award.

66. Ethical standards

66.1. A code of ethical standards is hereby established for officials and other role players in the supply chain management system of the Newcastle Municipality in order to promote –

(a) mutual trust and respect; and

(b) an environment where business can be conducted with integrity and in a fair and reasonable manner.

66.2. Code of conduct

66.2.1. Supply Chain Management Practitioners and all other role players involved in Supply Chain Management are:

(a) to act at all times with fidelity, honesty, integrity and in the best interests of the Newcastle Municipality and the general public it serves

(b) to diligently perform the duties of a member efficiently, effectively and strictly in accordance with the rules of bidding and bid evaluation, as set out in the bid documentation and according to all relevant instructions given by the institution

(c) to properly prepare for and attend each meeting of the bid committees applicable, and failing this to withdraw as a member

(d) to act at all times in accordance with the relevant legislation and regulations,

(e) specifically, to comply with the *Code of Conduct for the Municipalities.*

(f) to recognise the public's right to access to information in the interests of administrative justice

(g) to take the utmost care in ensuring that there is reasonable protection of the records of the institution and all bid documentation

(h) not to misuse the position or privileges of a member, or privileged or confidential information obtained as a member

(i) to carry out duties with the skill and care expected from a person of knowledge and experience, and to exercise due judgment

(j) not to unfairly discriminate against any bidder on the grounds of race, gender, ethnic or social origin, colour, sexual orientation, age, disability, religion, political persuasion, conscience, belief, culture or language

(k) not to abuse any position in the public services to promote or prejudice the interest of any political party or interest group

(l) to give the Auditor-General all the information and explanations it requires to carry out its functions

(m) to report to the appropriate authorities any case of fraud, corruption, nepotism, mal-administration and any other acts which constitute an offence or which are prejudicial to the public interest, arising during the bid evaluation panel proceedings

(n) to declare, diligently, accurately and honestly, in the declaration of interest, all personal and/or business interests that I or a family member may have in any business of any bidder, and to willingly abide by any decision of the chairperson of the bid evaluation panel or the accounting officer/authority to withdraw as a member of the panel because of this.

(o) to be open and honest about all decisions and actions taken regarding the bid evaluation, and to give clear reasons for these, which can be accurately recorded.

(p) not to make any dishonest allegations about any bidder

(q) not to make any false or misleading entries into the records of the bid evaluation panel

(r) to make no contractual commitments related to the bid, to any bidding party, on behalf of the institution.

(s) to proactively protect privileged or confidential information of the bid evaluation panel from theft, unauthorized disclosure or inappropriate use, and specifically:
  (i) not respond to any queries relating to the bid evaluation on behalf of the institution, unless expressly authorised in writing by the accounting officer/authority to do so.
  (ii) not to speak to or correspond carelessly with any person (fellow member, colleague, friend, family member or otherwise) on any matter related to the bid evaluation

t) not to use his position for private gain or to improperly benefit another person, not to request, solicit or accept any reward, gift or favor in return for voting or not voting in a particular way on any matter, or for disclosing privileged or confidential information.

u) not to accept or agree to later accept, any 'kickbacks' in the form of money, favours, inappropriate gifts or anything else of value from a member of the public, government, a political or social movement, or any stakeholder or potential stakeholder which is or may be viewed as aimed at influencing or directing the evaluation of the bids.

v) to disclose immediately to the chairperson or the accounting officer/authority any attempted inducement or offers of perks that may be construed as aimed at influencing or directing the evaluation of the bids

w) to report to the chairperson of the panel any invitations to any kind of entertainment by any party that may be construed as being associated in any way with the outcome of the bid evaluation

x) to not vote at, attend or participate in any other way in any meeting or hearing in relation to any matter before the bid evaluation panel, if any interest prevents me from carrying out my member functions in a fair, unbiased and proper way in accordance with this code of conduct.

66.2.2 A breach of the code of ethics must be dealt with as follows –

(a) in the case of an employee, in terms of the disciplinary procedures of the Newcastle Municipality envisaged in section 67(1)(h) of the Municipal Systems Act;
(b) in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.
(c) In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

67. Inducements, rewards, gifts and favors to municipalities, officials and other role players

67.1 a) no person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –

b) any inducement or reward to the Newcastle Municipality for or in connection with the award of a contract; or
c) any reward, gift, favor or hospitality to –
   (i) any official; or
   (ii) any other role player involved in the implementation of this SCM Policy.
d) all declarations must be recorded in a register which the accounting officer must keep.

67.2. The accounting officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.

67.3. Subparagraph (1) does not apply to gifts less than R350.00 in value.

68. Sponsorships

The accounting officer must promptly disclose to the National Treasury and the KwaZulu-Natal Provincial Treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is –
(a) a provider or prospective provider of goods or services; or
(b) a recipient or prospective recipient of goods disposed or to be disposed.

69. Objections and complaints

Persons aggrieved by decisions or actions taken in the implementation of this supply chain management system, may lodge within 14 days of the decision or action –

(a) if the objection or complaint is against the procurement process, submit a written objection or complaint against the decision or action to the accounting officer of the municipality who shall, in turn, refer the written objection or complaint to the independent and impartial person referred to in paragraph 69.1 for resolution or
(b) if such complaint or objection is against the award of a bid, lodge a written appeal with the Municipal Bid Appeals Tribunal in accordance with the provisions of paragraph 69.2

69.1 Resolution of objections and complaints against procurement process

(1) The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes to assist in the resolution of objections and complaints between the municipality and any other person regarding -

(a) the implementation of the procurement process in terms of the supply chain management system; or

(b) any matter arising from the implementation of the procurement process in terms of the supply chain management system.

(2) The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.

(3) The person appointed must –

(a) strive to resolve promptly all objections and complaints received; and

(b) submit reports to the accounting officer on all such objections and complaints received, attended to or resolved.

(4) If the independent and impartial person, is of the view that a matter which should be dealt with in terms of paragraph 69.2, he or she shall forthwith refer the matter to the Municipal Bid Tribunals and that Tribunal shall then hear and determine the matter in accordance with the provisions of paragraph 69.2.

(5) An objection or complaint may be referred to the KwaZulu-Natal Provincial Treasury if:

(a) the objection or complaint is not resolved within 60 days; or

(b) no response is forthcoming within 60 days.

(6) If the Provincial Treasury does not or cannot resolve the matter, the objection or complaint may be referred to the National Treasury for resolution.

69.2 Municipal Bid Appeals Tribunal

(1) The council shall establish a Municipal Bid Appeals Tribunal for its area of jurisdiction to hear and determine an appeal against the award of a bid.

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(2) The accounting officer of the municipality, in consultation with the Provincial Treasury, shall appoint the Chairperson, Deputy Chairperson and Members of the Municipal Bid Appeals Tribunal.

(3) The powers, duties and functions of the Municipal Bid Appeals Tribunal, and matters incidental thereto, are set out in the Rules which are appended to this Supply Chain Management Policy and marked Appendix A.

(4) The administrative and secretarial work involved in the performance of the duties and functions of the Municipal Bid Appeals Tribunal shall be performed by officers of the Provincial Treasury as set out in the Rules referred to in paragraph 69.2.3.

(5) There shall be no further appeal against a decision of the Municipal Bid Appeals Tribunal.

Part 5: Preferential Procurement Management

70. Preferential Procurement Management

Offers for the procurement of goods and services shall be in line with the applicable procurement legislation, namely the Preferential Policy Framework Act, 2000 (Act No 5 of 2000) and its associated Preferential Procurement Regulations, and the Broad-Based Black Economic Empowerment Act, 2003 (Act No 53 of 2003). Offers for the procurement of goods and services shall be adjudicated on the following criteria:

70.1. Evaluation of bids on functionality

(a) The Newcastle Municipality shall indicate on the invitation to submit a bid if a bid shall evaluated on functionality.

(b) The evaluation criteria for measuring functionality shall be objective.

(c) Where bids are evaluated on functionality, the following shall be clearly specified in the invitation to submit a bid –
   (i) The evaluation criteria for measuring functionality
   (ii) The weight of each criterion
   (iii) The applicable value; and
   (iv) The minimum qualifying score for functionality

(d) No bid shall be regarded as an acceptable bid if it fails to achieve a minimum score for functionality as indicated in the bid invitation.

(e) Bidders that have achieved the minimum qualifying score for functionality shall be evaluated further for preference point systems prescribed in paragraphs 70.2 and 70.3 of this SCM Policy.

70.2. The 80/20 Preferential Point System

(a) The following formula shall be used to calculate preference points in respect of bids (including price quotations) with a Rand value equal to, or above R 30 000 up to a Rand value of R 50 000 000 (all applicable taxes included):

$$Ps = 80\frac{(1 - Pt - P\,min)}{P\,min}$$

Where

Ps = Points scored for price of bid or offer under consideration.
Pt = Price of tender under consideration.
P min = Price of lowest acceptable tender

The Newcastle Municipality may apply the formula in paragraph a) for quotations with a value less than R30 000, if and when appropriate.

(b) Subject to sub-paragraph 70.2(c) points shall be awarded to a bidder attaining the B-BBEE status level contributor in accordance with the table below.

B-BBEE Status Level of Contributor	Number of Points
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

(c) A maximum 20 points shall be allocated in accordance with sub-paragraph 70.2(b) of this SCM policy.

(d) The points scored by the bidder in respect of B-BBEE contribution contemplated in sub-paragraph 70.2 (b) shall be added to the points scored for price as calculated in sub-paragraph 70.2 (a) of this SCM policy.

(e) Subject to sub-paragraph 70.4 of this SCM policy the contract shall be awarded to a bidder who scores the highest number of points.

A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract

If the price offered by a tenderer scoring the highest points is not market related, the organ of state may not award the contract to that tenderer.
(b) The organs of state may-
(i) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;
(ii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;
(iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.
(c) If a market-related price is not agreed as envisaged in paragraph (b)(iii), the organ of state must cancel the tender.

66.3. The 90/10 Preferential Point System

(a) The following formula shall be used to calculate preference points in respect of bids with a Rand value above of R50 000 000 (all applicable taxes included):

$$Ps = 90\frac{(1 - Pt - P\,min)}{P\,min}$$

Where

Ps = Points scored for price of tender under consideration.
Pt = Price of tender under consideration.
P min = Price of lowest acceptable tender.

(b) Subject to sub-paragraph 70.3(c) points shall be awarded to a bidder attaining the B-BBEE status level contributor in accordance with the table below.

B-BBEE Status Level of Contributor	Number of Points
1	10
2	9
3	6
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

(c) A maximum 10 points shall be allocated in accordance with sub-paragraph 70.3(b) of this SCM policy.

(d) The points scored by the bidder in respect of B-BBEE contribution contemplated in sub-paragraph 70.3(b) shall be added to the points scored for price as calculated in sub-paragraph 70.3(a) of this SCM policy.

(e) Subject to sub-paragraph 70.4 of this SCM policy the contract shall be awarded to a bidder who scores the highest number of points.

70.4. A contract may be awarded to a bidder that did not score the highest total number of points, only in accordance with section 2(1) (f) of the Preferential Procurement Policy Framework Act, 5 of 2000.

A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract

If the price offered by a tenderer scoring the highest points is not market related, the organ of state may not award the contract to that tenderer.
(b) The organs of state may-
(i) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;
(ii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;
(iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.
(c) If a market-related price is not agreed as envisaged in paragraph (b)(iii), the organ of state must cancel the tender.

71. Cancellation and Re-invitation of Bids

71.1. In the application of the 80/20 preference point system

(a) in the event that, in the application of the 80/20 preference point system as stipulated in the bid documents, all bids received exceed the estimated Rand value of R 1 000,000, the bid invitation shall be cancelled.
(b) If one or more acceptable bids received are within the prescribed threshold of R1 000 000, all bids received must be evaluated on the 80/20 preference point systems.

71.2. In the application of the 90/10 preference point system

(a) in the event that, in the application of the 90/10 preference point system as stipulated in the bid documents, all bids received are equal to, or below the estimated Rand value of R 1 000,000, the bid invitation shall be cancelled.
(b) If one or more acceptable bids received are above the prescribed threshold of R1 000 000, all bids received must be evaluated on the 90/10 preference point systems.

71.3. The Newcastle Municipality shall, after cancellation of a bid invitation as contemplated in sub-paragraphs 71.1 (a) and 71.2(a), re-invite bidders and shall, in the bid documents stipulate the correct preference point system to be applied.

71.4. The Newcastle Municipality shall, prior to the award of a bid, cancel a bid if –

(a) due to changed circumstances, there is no longer a need for the services, works or goods requested; or
(b) funds are no longer available to cover the total envisaged expenditure; or
(c) no acceptable bids are received

72. Preference Point System for Disposals

72.1. Formula

(a) The following formula must be used to calculate the points for price in respect of competitive bids for disposals :
(i) equal to or above R 30 000 up to a value of R 50 000, 000:

$$Ps = 80\frac{(1+ Pt - Ph)}{Ph}$$

Where –
Ps = Points scored for comparative price of bid or offer under consideration
Pt = Comparative price of bid / offer under consideration
Ph = Comparative price of highest acceptable bid or offer

(ii) with a value above R 50 000,000:

$$Ps = 90\frac{(1+ Pt - Ph)}{Ph}$$

Where –
Ps = Points scored for comparative price of bid / offer under consideration
Pt = Comparative price of bid / offer under consideration
Ph = Comparative price of highest acceptable bid / offer

(b) A maximum of 10 or 20 points, as the case may be, may be awarded to a bidder for B-BBEE status level of contribution.
(c) The points scored by a bidder in respect of B-BBEE status level contribution must be added to the points scored for price.

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(d) Only the bid with the highest number of points scored may be selected.

72.2 Conditions

(a) Only a bidder who has completed and signed the declaration part of the bid documentation shall be considered.
(b) The Newcastle Municipality shall, when calculating comparative prices, take into account any discounts which have been offered unconditionally.
(c) The Newcastle Municipality shall, when effecting payment, implement a discount which has been offered conditionally despite it being not taken into account for evaluation purposes.
(d) A trust, consortium or joint venture shall qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits B-BBEE status level certificate
(e) A person shall not be awarded points for B-BBEE status level if it indicated in the bid documents that such a bidder intends subcontracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an exempted micro enterprise that has the capability and ability to execute the sub-contract.
(f) A person awarded a contract may not subcontract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an exempted micro enterprise that has the capability and ability to execute the sub-contract.
(g) A person awarded a contract in relation to a designated sector, may not subcontract in such a manner that the local production and content of the overall value of contract is reduced to below the stipulated minimum threshold.

72.3. Declarations

A bidder must, in the manner stipulated in the bid document, declare that:

(a) The information provided regarding any claim of points for B-BBEE status level is true and correct;
(b) the signatory to the bid document is duly authorised; and
(c) documentary proof regarding any bidding issue will, when required, be submitted to the satisfaction of the Newcastle Municipality.

72.4. Remedies

Where a contract has been awarded on the strength of B-BBEE status level of contribution furnished by the bidder or contractor which, after the conclusion of the relevant contract, is proved to have been claimed or obtained on a fraudulent basis, the Newcastle Municipality may, in addition to any other legal remedy it may have:
a) disqualify the person from the bidding process

b) recover from the contractor all costs, losses or damages incurred or sustained by the municipality as a result of that contractor's conduct;
c) cancel the contract and claim damages which the municipality may suffer as a result of having to make less favourable arrangements due to such cancellation;
d) restrict the bidder or contractor, its shareholders and directors, or only the shareholders or directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* rule has been applied; and
e) forward the matter for criminal prosecution

73. Local Production and Content

73.1. The bidding conditions may stipulate a minimum threshold of local production and content, as contemplated in regulation 9 of Preferential Procurement Regulations, GNR 502 dated 8 June 2011, where for such bids locally produced goods. Services or works or locally manufactured goods are of critical importance.

73.2. Every bid issued in terms of sub-paragraph 73.1 must be measurable and audited.

74 Variation order

74.1 Contracts may be expanded or varied by not more than 20% for construction related goods, services and/or infrastructure projects and 15% for all other goods and/or services of the original value of the contract.

74.2 Any expansion or variation in excess of these thresholds must be dealt with in terms of the provisions of section 116(3) of the MFMA which will be regarded as an amendment to the contract.

74.3 The contents of the above paragraph are not applicable to transversal term contracts, facilitated by the relevant treasuries on behalf of municipalities and, specific term contracts. The latter refers to orders placed as and when commodities are required and at the time of awarding contracts, the required quantities were unknown.

75. Subcontracting as condition of tender

If feasible to subcontract for a contract above R30 million, an organ of state must apply subcontracting to advance designated groups.

(2) If an organ of state applies subcontracting as contemplated in subregulation (1), the organ of state must advertise the tender with a specific tendering condition that the successful tenderer must subcontract a minimum of 30% of the value of the contract to-

(a) an EME or QSE;
(b) an EME or QSE which is at least 51% owned by black people;
(c) an EME or QSE which is at least 51% owned by black people who are youth;
(d) an EME or QSE which is at least 51% owned by black people who are women;
(e) an EME or QSE which is at least 51% owned by black people with disabilities;

(f) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
(g) a cooperative which is at least 51% owned by black people;
(h) an EME or QSE which is at least 51% owned by black people who are military veterans; or
(i) more than one of the categories referred to in paragraphs (a) to (h).
(3) The organ of state must make available the list of all suppliers registered on a database approved by the National Treasury to provide the required goods or services in
(a) respect of the applicable designated groups mentioned in subregulation (2) from which the tenderer must select a supplier.

76. Commencement

This SCM Policy takes effect on 01 July 2017.

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